


LESSEE
Apollo Cablevision, Inc.

By 

Attest:


Corporate Secretary

COPY

AMENDMENT NO. 2 TO LEASE AGREEMENT BETWEEN
APOLLO AND GTEC FOR COAXIAL BANDWIDTH LEASE

This Agreement is entered into as of the date last appearing on the signature page of this Agreement between GTE California Incorporated, formerly known as General Telephone Company of California ("GTEC" or "Owner") and Apollo Cablevision, Inc. ("Apollo" or "Lessee").

RECITALS

This Agreement is entered into with reference to the following agreed facts:

A. Apollo entered into a Lease Agreement with GTEC dated January 22, 1987, which Lease Agreement was modified by the Amendment No. 1 to Lease Agreement dated May 26, 1988 signed by Apollo and GTEC. All references to the "Lease" shall hereinafter refer to the January 22, 1987 Lease Agreement as modified by the May 26, 1988 Amendment thereto. The Lease specifies the terms and conditions under which GTEC, as Owner of an underground electrical signal transmission facility (the "System"), will lease to Apollo as Lessee, bandwidth in the System required by Apollo to provide Video Programming (as that phrase is used in the Cable Communications Policy Act of 1984) to Apollo's customers in the City of Cerritos, California ("City").

B. Apollo has entered into contractual arrangements to acquire decoders ("converter boxes"), which decoders are

suitable for Apollo's current Video Programming, as defined at Recital paragraph F. Apollo has installed, or has in inventory, approximately 3,000 decoders as of the date of this Agreement.

C. GTEC has approved the head end design as prepared by T. L. Robak, Inc., Apollo's parent company, in accordance with a design agreement between GTEC and T. L. Robak. The design specified encoders, computer, and decoders manufactured and provided by Scientific Atlanta, which met the criteria known at the time.

D. GTEC has entered into a separate agreement with GTE Service Corporation ("GTESC") to lease bandwidth in the System to GTESC for testing technology and services in the City. It was understood by all parties at the time of initial leasing that GTESC would be seeking to develop services useful to Apollo and the City. GTESC has determined that the decoders purchased by Apollo do not have the capabilities desired by GTESC, which is attempting to develop new services for Apollo and the City. GTESC has requested GTEC to provide additional System capabilities that necessitate the replacement of the existing decoders, encoder and computer presently installed in the System. The parties agree that this will require Apollo's current installed supply and inventory of decoders to be eliminated and will require

the use of a different decoder throughout the entire system.

E. It is understood that Apollo is concurrently entering into a separate agreement with GTEC regarding the financial impact on Apollo as a result of the replacement of the decoders Apollo has installed or has in inventory as a result of the System change.

F. The parties agree that Apollo's essential business objective and economic expectation in the Lease is the provision of Video Programming to its customers in the City. The parties further agree that the decoders are an integral element of the System, of which the ownership and future commercial use (other than the provision of Video Programming) are essential business objectives and economic expectations of GTEC. It is also agreed that the most efficient way of accomplishing the desired decoder exchange is for GTEC to provide and own all of the decoders (and related wiring and other materials) to be installed in the System. The parties agree that such an approach provides greater flexibility for the testing of new communications technologies as contemplated in paragraph 18 of the Lease, and is not intended to change Apollo's control over, or essential economic expectations of, its provision of Video Programming as set forth in the Cable Communications Policy Act of 1984 and in Apollo's franchise with the City of Cerritos. This

requires certain amendments and modifications to the Lease. The purpose of this agreement is to express such modifications to the Lease.

G. GTEC and Apollo desire that the Lease remain and continue in effect, but further desire that the Lease be amended, ratified and confirmed as herein provided.

NOW THEREFORE the parties hereby agree as follows:

1. Exhibit C to the initial Lease is hereby modified to delete all reference to "decoders" or "converter boxes". Henceforth, the decoders (converter boxes) and the related wiring and other materials shall be deemed to be a part of the System and will be the property of GTEC. The parties further agree to enter into a separate agreement which will specify the terms and provisions under which Apollo will be reimbursed for its costs (including labor and materials) for the wiring of the structures in which the decoders are to be installed and for the performance of certain other services such as the connection of the telephone interface module of the decoders to the telephone network.

2. Within a reasonable time following: (i) the required System changes; (ii) the execution of this Agreement; and, (iii) the agreement with GTEC referred to in recital paragraph E; Apollo hereby agrees to commence replacement of the existing decoders installed in homes in the City with decoders provided by GTEC. In addition, Apollo agrees to

install such decoders provided by GTEC for all installations in the System, at no cost to GTEC other than the reimbursement for wiring the structures in which the decoders are installed pursuant to the separate agreement referred to in paragraph 1.

3. GTEC agrees to provide Apollo with a quantity of decoders, as specified by Apollo, to meet Apollo's ongoing service requirements, as well as those decoders needed to replace existing inventory and installed decoders. Apollo's duty to commence the replacement of the existing decoders installed on the System shall not arise until GTEC provides Apollo with replacement decoders.

4. The parties understand that GTEC's involvement in the new Video services made possible by replacement of decoders is subject to regulatory and judicial review, and, if GTEC's involvement is disallowed, this may require further revision of the Lease and this modification. The parties agree to negotiate any further modifications in good faith. Such negotiations shall be based on the essential business objectives and economic expectations of the parties as specified in Recital paragraph F and, with reference to the decoders, on the principle of relative commercial utility of the decoder to each party.

5. Apollo agrees that one half of GTEC's reasonably incurred costs of acquiring all decoders for initial, but not subsequent replacement, installation in the System (including

one half of the reimbursement for wiring the structures in which the decoders are installed pursuant to the separate agreement referred to paragraph 1) shall be included in the "Owner's Recoverable Construction Cost", as that phrase is defined in Exhibit B to the initial Lease. In the event GTEC is subsequently requested to incorporate in the System a decoder with different capabilities that is more expensive than the currently specified decoder, the parties agree to negotiate responsibility for any additional cost that may be incurred in good faith.

6. That paragraph 5, found at page 3 of the Lease shall now read as follows:

Option to Renew Lease. Owner hereby grants Lessee an option to renew this Lease coextensive with any extensions granted by the City of Cerritos to Lessee pursuant to the CATV Contract referred to in paragraph 4, at a reasonable market rent that includes any future investments in the System and/or operational costs needed to continue the level of service quality required by the City and the FCC.

7. (a) GTEC agrees not to compete with Apollo, or any permitted successor or assignee, in the provision of Video Programming in the City during the term of the lease (including any extensions thereof not in excess of seven (7)

years beyond the initial term).

(b) Provided, however, that GTEC shall not be prevented by subsection (a) from complying, as a carrier, with any access obligations to video programmers imposed on it by the FCC, other regulatory bodies, or the courts.

8. To delete paragraph 21 of the Lease and to substitute the following in lieu thereof:

"21. Increase in Bandwidth Capacity or Utilization of Other Portions of the System for the Transmission of CATV Signals.

(a) Owner agrees that if bandwidth capacity in the Coaxial facilities in excess of 275 MHz should become available, Lessee, or its successor, is hereby granted a right of first refusal to the use of any such increase in capacity at the then reasonable market rent for such bandwidth.

(b) Owner further agrees that if bandwidth capacity in its Fiber Network Facilities (as that term is defined in the lease agreement between GTEC and GTEC dated May 26, 1988): (i) is available for the commercial--as opposed to the initially experimental--provision of Video Programming in the City; and, (ii) such capacity is offered by Owner to any other party for the purpose of commercially providing Video Programming; then in such event, Lessee, or its successor, is hereby granted a right of first refusal to the partial use of any such portion of the Fiber Network

Facilities that is available for the provision of Video Programming at the then reasonable market rent for such bandwidth. Provided, however, that the right shall not extend to more bandwidth than is represented by the total of: (i) Apollo's current usage of Coaxial System bandwidth; and, (ii) amounts of Fiber Network Facilities bandwidth offered to other parties for Video Programming.

(c) In the event Lessee switches all or a portion of its Video Programming to any of Owner's facilities other than the coaxial facilities, the parties agree to negotiate in good faith the rescheduling of the rent to be paid by the Lessee for the initial term of the Lease based upon the essential business objectives and economic expectations of the parties as specified in Recital paragraph F to Amendment No. 2 to this Lease.

(d) Owner agrees not to lease any portion of the System for the purpose of providing Video Programming to another party at a rental rate that is less than the reasonable market rent offered by Owner to Lessee pursuant to the rights of first refusal specified in subparagraphs (a) and (b) of this paragraph 21."

9. The Lease as amended shall, in all respects, remain in full force and effect without modification or revision except to the extent and in the manner herein specifically provided.

IN WITNESS WHEREOF, the parties hereto have executed
this Agreement as of the dates indicated below.

OWNER

GTE California Incorporated

By _____

DATED: _____, 1989

Attest:

KENNETH K. OKEL
Assistant Secretary

LESSEE

Apollo Cablevision, Inc.

By Tom Roland President

DATED: 6/19/89, 1989

Attest:

Eugene H Bishop
Corporate Secretary

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ORIGINAL

AMENDMENT NO. 3 TO LEASE AGREEMENT
BETWEEN GTE CALIFORNIA INCORPORATED
AND APOLLO CABLEVISION, INC.

This Agreement is entered into as of the 3rd day of May, 1991, between GTE California Incorporated, formerly known as General Telephone Company of California ("GTEC" or "Owner") and Apollo Cablevision, Inc. ("Apollo" or "Lessee").

RECITALS

This Agreement is entered into with reference to the following agreed facts:

A. Apollo entered into a Lease Agreement with GTEC dated January 22, 1987, which Lease Agreement was modified by Amendment No. 1 to Lease Agreement dated May 26, 1988 signed by Apollo and GTEC, and by Amendment No. 2 to Lease Agreement dated June 26, 1989 signed by Apollo and GTEC. All references to the "Lease" shall hereinafter refer to the January 22, 1987 Lease as modified by the May 26, 1988 and June 26, 1989 amendments thereto. The Lease specifies the terms and conditions under which GTEC, as Owner of an underground electrical signal transmission facility (the "System"), will lease to Apollo as Lessee, bandwidth in the System required by Apollo to provide Video Programming (as that phrase is used in the Cable

Communications Policy Act of 1984) to Apollo's customers in the City of Cerritos, California ("City").

B. The purpose of Amendment No. 3 is to establish Apollo's current obligation to pay rent in recognition that the System will be deemed to be completed upon the signing of the Notice of Partial Completion.

NOW, THEREFORE, the parties hereby agree that:

1. Paragraph 2 of the January 22, 1987 Lease Agreement is hereby modified to read as follows:

"2. Rent. The Lessee shall pay the Owner as rent for the use of said bandwidth capacity the monthly sum of \$95,265.00 described in Exhibit "A" to Amendment No. 3. A late payment charge equal to 1.5% per month, or the maximum rate allowed by law, whichever is less, will apply to each rental payment which is received by Owner more than five (5) days after the payment due date shown on Owner's monthly statements. The Attributable Owner's Recoverable Cost incurred after this Amendment No. 3 is signed shall appear as a separately identified entry on the Lessee's monthly bill, and is a cost payable to Lessee in addition to that monthly sum of \$95,265.00. For the purpose of this Lease, the phrase "Attributable Owner's Recoverable Cost" means one-half (1/2) of Owner's direct capital costs incurred in the completion or extension of the 550 MHz CATV System as defined in the Maintenance Agreement (as amended), including but not limited to the connection of the 550 MHz CATV System to

certain schools in the City of Cerritos, which is currently being accomplished, the addition of new subscribers (including residential and business users) to the 550 MHz CATV System or any extension of the 550 MHz CATV System required by the City of Cerritos. Attributable Owner's Recoverable Cost does not include extraordinary repair or capital replacement of existing investment as replacement and maintenance is the subject of a separate agreement between the parties, or Owner's indirect costs, including but not limited to overhead and legal costs or interest on sums expended."

2. Paragraph 3 of the January 22, 1987 Lease Agreement is hereby modified to read as follows:

"3. Term. This Lease Agreement shall commence as of the date the Notice of Partial Completion is signed by the Owner, T. L. Robak, Inc. as Contractor, and City, which for purposes of the lease payment constitutes the date that the System is deemed to be completed. The Lease Agreement shall continue for a period of fifteen (15) years from the date the Notice of Partial Completion is signed by the Owner, Contractor and City which constitutes written notice of the availability of said bandwidth capacity to Lessee (as set forth in paragraph 16 of that certain Construction Agreement between the Owner and T. L. Robak, Inc., dated the

22nd day of January, 1987, and by this reference incorporated herein), unless sooner terminated by the provision of this Lease Agreement. The first monthly lease payment shall be due and payable on the date the Notice of Partial Completion is signed by the Owner, Contractor and the City and on the same day of each month thereafter for a total (including payment number one) of 180 months."

3. Paragraph 17 of the January 22, 1987 Lease Agreement is hereby modified to read as follows:

"17. Prepayment of Rental. The parties agree that the Lessee may, at any time during the term of this Lease, prepay in whole or in part the "Owners Recoverable Construction Cost" (as specified on Exhibit "A" to Amendment No. 3) at its then present value. If the full unpaid balance is paid, Lessee shall have no further rental payments due under the terms of this Lease Agreement, except the Attributable Owner's Recoverable Cost not identified as a part of the 180 month Lease Payment Schedule."

4. Exhibit "B" to the Initial Lease of January 22, 1987 is hereby amended to read as follows:

"(a) Lessee shall pay Owner, over the term of this Lease, a principal sum equal to the sum of \$5,685,500 ("Owner's Recoverable Construction Cost") (See Summary of Owner's Recoverable Construction

Cost attached to Amendment No. 3 as Exhibit "A" and by this reference incorporated herein).

(b) The annual rental payment is agreed to be the sum necessary to amortize the Owner's Recoverable Construction Cost and provide the Owner an annual rate of return of 18.9% on the Owner's Recoverable Construction Cost over the initial 15 year term of this Lease payable in monthly installments of \$95,265.00. The first rental payment is due on the date the Notice of Partial Completion is signed by the Owner, T.L. Robak, Inc. as Contractor, and the City of Cerritos and on the same day of each month thereafter for a total (including payment number one) of 180 months.

(c) Based upon the Owner's Recoverable Construction Cost specified in paragraph (a) above, the twelve (12) monthly payments total \$1,143,185.00 per year.

Any Attributable Owner's Recoverable Cost incurred after this Amendment No. 3 is signed, will be a separately identified entry on the Lessee's monthly bill, for which the Lessee is responsible for paying in addition to the monthly amount of \$95,265.00."

5. Exhibit "C" to the Initial Lease of January 22, 1987 is hereby amended as follows:

"SCHEDULE OF ITEMS OF THE CATV
OPERATING FRANCHISE OWNED BY LESSEE

Items of the operating system owned by the Lessee are limited to the following:

1. CATV and TVRO (Television Receive Only) earth station antennas;
2. Low Noise Amplifiers ("LNS");
3. Low Noise Blocking converters ("LNB");
4. Low Noise Converters ("LNC"); and
5. Coaxial cables up to the input of the decombiners/power dividers."

6. The Lease, as amended, shall in all respects, remain in full force and effect without modification or revision except to the extent and in the manner herein specifically provided.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 3 to the Lease Agreement as of the dates indicated below.

OWNER

GTE CALIFORNIA INCORPORATED

FORM APPROVED

Robert N. Herrera

Attorney

ROBERT N. HERRERA

May 6, 1991

By

J. A. Ruller

Dated: May 3, 1991

For B. B. Heiler

Attest:

Kenneth K. Okel

KENNETH K. OKEL
Assistant Secretary

LESSEE

Apollo CableVision, Inc.

By Tom Kolas

Dated: May 3, 1991

Attest:

Corporate Secretary

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EXHIBIT "A"
TO AMENDMENT NO. 3 TO LEASE AGREEMENT
BETWEEN GTE CALIFORNIA AND APOLLO CABLEVISION

SUMMARY OF
OWNER'S RECOVERABLE CONSTRUCTION COST
000'S

	<u>APOLLO</u>
INVESTMENT AS OF 6/90	\$5,706.0
INVESTMENT 7/90 TO 12/90	92.0
INVESTMENT ESTIMATE SCHOOLS CONNECTIONS*	37.5
 TOTAL INVESTMENT	 \$5,835.5
 MAINTENANCE CREDIT**	 \$ (150.0)
\$150,000 ONE TIME CREDIT	
 OWNER'S RECOVERABLE CONSTRUCTION COST	 \$5,685.5

=====

IN DOLLARS

	MONTH	ANNUAL
PAYMENT OF OWNER'S RECOVERABLE CONSTRUCTION COST AMORTIZED OVER 15 YEARS AT 18.9% SIMPLE INTEREST	\$95,265.00	\$1,143,185.00

*TOTAL OWNER'S RECOVERABLE CONSTRUCTION COST ESTIMATE TO 2/91
INCLUDES \$75K FOR SCHOOLS IN THE CITY OF CERRITOS, WHICH IS AN
ATTRIBUTABLE OWNER'S RECOVERABLE COST AS DEFINED IN THIS
AMENDMENT NO. 3 TO LEASE AGREEMENT.

**PER THE MAINTENANCE AGREEMENT, A ONE TIME CREDIT OF \$150,000 IS
REFLECTED AS AN ADJUSTMENT TO THE APOLLO ALLOCATION OF THE
OWNER'S RECOVERABLE CONSTRUCTION COST, FOR MAINTENANCE PERFORMED
PRIOR TO THE EXECUTION OF AMENDMENT NO. 1 TO THE MAINTENANCE
AGREEMENT.

This Agreement is entered into between GTE Service Corporation ("GTESC") and Apollo CableVision, Inc. ("Apollo").

WHEREAS, GTESC wishes to test new communication technologies within the City of Cerritos, California, and

WHEREAS, Video on Demand ("VOD") and Near Video On Demand ("NVOD") are two such services which GTESC wishes to test in the City of Cerritos.

NOW, THEREFORE, the parties hereto do hereby agree as follows:

1. The term of this Agreement is from the date the Agreement is signed until June 30, 1991.

2. During the term of this Agreement, GTESC shall have the right to require Apollo to provide VOD and NVOD in the City of Cerritos under Apollo's name in a manner defined by and under the supervision of GTESC. Apollo agrees that it will not provide VOD and NVOD or any pay-per-view service other than as contemplated by this Agreement. Provided, however, that Apollo may continue to offer pay-per-view service until GTESC notifies Apollo that its pay-per-view service is available to a subscriber base substantially equivalent to that of Apollo.

3. In connection with the provision of VOD and NVOD by Apollo in the City of Cerritos, GTESC will be responsible for making available to Apollo, at no charge:

(a) programming, consisting of specific events to be offered to customers of Apollo, which events will be selected by a third party under contract to GTESC;

(b) technology for Apollo's use in the delivery of programming to customers; and

(c) marketing, promotion and advertising.

4. The purpose of making available such facilities, services and programming to Apollo is to permit GTESC to test new communication technologies and services, and to enable GTESC to gather information about customer acceptance of programming transmitted by different communication technologies, demand and price elasticity factors, packaging techniques, and other marketing factors. Accordingly, GTESC intends to establish programming intervals, prices, the number of offerings, and marketing techniques and strategies. Apollo agrees to provide VOD and NVOD to customers in accordance with these and such other parameters as may be established by GTESC.

5. In connection with the provision of VOD and NVOD in the City of Cerritos, Apollo will provide the following services:

(a) All CATV-related services, if any, necessary to support the provision of VOD and NVOD including special event programs to customers who have access to such events over technology made available by GTESC.

(b) Billing and collection services.

(c) Data collection services.

(d) Customer services, consisting of the availability of Apollo customer service representatives, technical staff and sales staff, who have training in the offering of VOD and NVOD services, to interface with customers of VOD and NVOD services in accordance with parameters established by GTESC.

(e) Installation services and customer service and support to meet customer demands in connection with special events.

(f) Technical support services, testing and maintenance.

(g) Apollo shall utilize sufficient collection methods to determine information concerning the purchase of specific VOD and NVOD events in accordance with parameters established by GTESC, and shall transmit monthly by the fifth (5th) working day after the billing cycle closes (or on such other frequent basis as may be otherwise agreed) all such information and all revenues collected for such events to GTESC.

6. It is anticipated that the ratio of uncollectible revenue to billed revenue for VOD and NVOD shall be one percent (1%) or less, and Apollo shall exert its best efforts to maintain an uncollectible ratio of one percent (1%) or less.

7. GTESC will execute all contracts for programming to be furnished to Apollo for use in providing VOD and NVOD and special event programming to customers in the City of Cerritos, subject to any applicable orders of the Federal Communications Commission.

8. In consideration of the above-referenced services provided by Apollo, GTESC shall compensate Apollo in the amount of twenty-five cents (25) per view for each VOD and NVOD program defined as first run; ten percent (10%) of net gross receipts on products not theatrically released or anything post pay-TV I window; and fifty percent (50%) of net profit on satellite-delivered event programming.

9. GTESC shall further reimburse Apollo for the following expenses in connection with VOD and NVOD:

(a) The training of Apollo's CSRs on Cable Data impulse technology and VOD and NVOD billing procedures. Actual expenses reasonably incurred by Apollo employees for travel and accommoda-

tions, as well as cost billed by Cable Data for training, shall be paid by GTE SC. GTE SC will further reimburse Apollo at the hourly rate of sixteen dollars fifty cents (\$16.50) for time spent by Apollo employees in such training sessions. Total training costs will not exceed six thousand dollars (\$6,000.00) without the prior written consent of GTE SC.

(b) GTE SC will reimburse Apollo for technical and engineering support associated with installing new billing equipment specifically required for VOD and NVOD at the rate of \$47.50 per hour. Total costs will not exceed fourteen thousand dollars (\$14,000.00) without the prior written consent of GTE SC.

(c) Apollo's above-mentioned expenses or charges shall be reimbursed under the following conditions:

(1) Apollo must provide estimates of all expenses defined above to GTE SC in advance and GTE SC must approve these expenses prior to their incurrence.

(2) GTE SC will reimburse Apollo for pre-approved reasonable travel, meals and lodging.

10. Net profit for satellite delivered events means gross receipts from the event less license fees and direct expenses, such as special descrambler boxes, event insurance, and overtime labor costs, etc. The offering of these events and the costs to be incurred will be mutually agreed upon by the parties.

11. The parties recognize that new services, including VOD and NVOD, could benefit Apollo by increasing "penetration"--the portion of residents choosing to subscribe to Apollo's basic service. The parties also acknowledge that the system in Cerritos may experience a natural decrease in basic and premium subscription as the novelty subsides and as the system matures. However, it is